

Order

Michigan Supreme Court
Lansing, Michigan

December 1, 2006

Clifford W. Taylor,
Chief Justice

130666 & (39)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

DEBORAH SUE NICKE,
Plaintiff-Appellee,

v

SC: 130666
COA: 263929
Wayne CC: 03-335375-NI

KENNETH MICHAEL MILLER,
AUTOMOTIVE RENTALS, INC., HIGH
VOLTAGE MAINTENANCE CORPORATION,
and EMERSON ELECTRIC COMPANY,
Defendants-Appellants,

and

JUAN HERNANDEZ-MORENO and STATE
FARM MUTUAL AUTO INSURANCE
COMPANY,
Defendants.

On November 15, 2006, the Court heard oral argument on the application for leave to appeal the January 26, 2006 judgment of the Court of Appeals. On order of the Court, the application is again considered. MCR 7.302(G)(1). In lieu of granting leave to appeal, we REVERSE the Court of Appeals judgment and REINSTATE the May 4, 2005 order of the Wayne Circuit Court granting defendants' motion for summary disposition. Defendants are entitled to summary disposition for the reasons stated by the circuit court. The Court of Appeals concluded that "[p]laintiff's life before the accident is not substantially different from her life after the accident," and that plaintiff "failed to present evidence to establish that her general ability to lead her normal life has been affected" Based upon these conclusions, plaintiff has failed to demonstrate the existence of a serious impairment of bodily function as the term is defined in *Kreiner v Fisher*, 471 Mich 109, 114 (2004). Although an impairment that satisfies the *Kreiner* standard need not be permanent or of any particular duration, both "temporary" and "permanent" impairments must satisfy this same standard.

The motion by the Insurance Institute of Michigan for leave to file an amicus curiae brief is GRANTED.

CAVANAGH, J., would deny leave to appeal.

WEAVER, J., would deny leave to appeal for the reasons expressed in Justice Cavanagh's dissent in *Kreiner v Fischer*, 471 Mich 109, 147-148 (2004).

KELLY, J., would deny leave to appeal.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 1, 2006

A handwritten signature in cursive script that reads "Corbin R. Davis".

Clerk